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H. John Bragg

FEDERAL COMMUNICATIONS COMMISSION

In Re Applications of:) MM DOCKET No.: 98-66
HICKS BROADCASTING OF INDIANA, LLC)
Order to Show Cause Why the)
License for FM Radio Station)
WRBR(FM), South Bend, Indiana,)
Should Not Be Revoked;)
AND)
PATHFINDER COMMUNICATIONS CORP.)
Order to Show Cause Why the)
License for FM Radio Station)
WBYT(FM), Elkhart, Indiana)
Should Not Be Revoked;)

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HERITAGE REPORTING CORPORATION

Official Reporters
1220 L Street, NW, Suite 600
Washington, D.C.
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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Courtroom 1, Room 227
FCC Building
2000 L Street, N.W.
Washington, D.C.

Friday,
October 23, 1998

The parties met, pursuant to the notice of the
Judge, at 9:00 a.m.

BEFORE: HON. JOSEPH CHACHKIN
Administrative Law Judge

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APPEARANCES:

On behalf of the Mass Media Bureau:

JAMES SHOOK, ESQ.
ROY W. BOYCE, ESQ.
KATHRYN S. BERTHOT, ESQ.
Mass Media Bureau
Enforcement Division
Federal Communications Commission
2025 M Street, Northwest
Suite 731F
Washington, D.C. 20554
(202) 418-1454

On Behalf of Hicks Broadcasting:

ERIC T. WERNER, ESQ.
ERWIN G. KRASNOW, ESQ.
DOUGLAS W. HALL, ESQ.
Verner Liipfert, Bernhard, McPherson & Hand
901 15th Street, Northwest
Washington, D.C. 20005-2301
(202) 371-6062

On Behalf of Pathfinder:

MICHAEL J. GUZMAN. ESQ.
ERIC L. BERNTHAL, ESQ.
EVERETT C. JOHNSON, JR., ESQ.
ALLEN GARDNER, ESQ.
Latham & Watkins
1001 Pennsylvania Avenue, Northwest
Suite 1300
Washington, D.C. 20004-2505
(202) 637-2200

Heritage Reporting Corporation
(202) 628-4888

APPEARANCES: (Continued)

On Behalf of Niles Broadcasting:

WILLIAM CRISPIN, ESQ.
Crispin & Brenner, P.L.L.C
901 15th Street, Northwest
Suite 440
Washington, D.C. 20005
(202) 828-0155

On Behalf of Edward J. Sackley III:

KATHRYN R. SCHMELTZER, ESQ.
Fisher Wayland Cooper Leader
& Zaragoza, L.L.P.
2001 Pennsylvania Avenue, Northwest
Suite 402
Washington, D. C. 20006-1851
(202) 775-3547

Heritage Reporting Corporation
(202) 628-4888

I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Robert A. Watson (Resumes)	661	--	--	--	--

E X H I B I T S

	<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>REJECTED</u>
<u>Mass Media Bureau:</u>			
63	(Prev.)	687	--
64	(Prev.)	688	--
65	(Prev.)	689	--
67	(Prev.)	703	--
74	(Prev.)	722	--
75	(Prev.)	723	--
76	(Prev.)	729	--
77	(Prev.)	733	--
78	(Prev.)	736	--
79	(Prev.)	739	--
81	(Prev.)	741	--
82	(Prev.)	741	--
83	(Prev.)	745	--
84	(Prev.)	745	--
112	(Prev.)	763	--
85	(Prev.)	765	--
69	(Prev.)	769	--
70	(Prev.)	769	--
86	(Prev.)	770	--
108	(Prev.)	779	--
68	(Prev.)	782	--
90	(Prev.)	830	--
102	(Prev.)	853	--
109	(Prev.)	857	--
107	(Prev.)	860	--

Hearing Began: 9:00 a.m.	Hearing Ended: 3:35 p.m.
Recess Began: 12:50 p.m.	Recess Ended: 2:00 p.m.

1 P R O C E E D I N G S

2 JUDGE CHACHKIN: Back on the record.

3 Let's continue.

4 MR. SHOOK: Thank you, Your Honor.

5 Whereupon,

6 ROBERT A. WATSON

7 having been previously duly sworn, was recalled as a witness
8 herein, and was examined and testified further as follows:

9 DIRECT EXAMINATION (Resumes)

10 BY MR. SHOOK:

11 Q Mr. Watson, the Judge has expressed to us his
12 concern yesterday about what relationship, if any, you might
13 have with Mr. Dille, so I'm going to take a little time now
14 to go over that.

15 I don't think that we asked yesterday, your know,
16 where your business office is located. Could you tell us
17 that, please?

18 A My office is in Elkhart, Indiana, in the Communa-
19 Kana Building, and it happens to be a building which we own,
20 and it also contains the Elkhart Truth, the newspaper. It's
21 in that building also.

22 Q Where is Mr. Dille's office in relation to yours?

23 A It's on the same floor, a ways apart. Twenty-five
24 yards apart, maybe or 50 yards apart.

25 Q Big building there?

1 A Um-hmm, it is. Six stories, and our offices are
2 on the second floor.

3 Q Now, how long has that been the case?

4 A It's been that, approximately, a little switching
5 of offices, but that distance you mean, for a little over 20
6 years.

7 Q How often during the course of the day would you
8 communicate either by phone or face to face with Mr. Dille?

9 A Oh, that would vary all over the place. There are
10 some days that we'll see each other three or four times, and
11 there have been times I won't see him for two or three days,
12 a couple of days; depending on our schedules and other
13 things. It just varies, and I don't -- I don't necessarily
14 speak to him every day. Even when he's there, we don't; you
15 know, just different, different schedules.

16 Q Now, has this pattern been pretty much the same
17 over the period of time that your offices have been on the
18 same floor or has it varied?

19 A Well, before me being in the last say, the last
20 eight or 10 years, prior to that I had my predecessor. He
21 probably spent more time with my predecessor than he did
22 with me. The last eight, seven or eight, 10 years, my
23 predecessor left, and then, of course, he spent more time
24 with me.

25 Q Well, why don't we focus then on the last, you

1 said was it eight to 10 years?

2 A About, yeah, eight to 10 years, I'd say, last 10
3 years he spent more time with me.

4 Q Now, how -- could you give a rough percentage in
5 terms of how many of your conversation would pertain to the
6 operation of Pathfinder's radio stations?

7 A Well, probably -- I don't know about
8 conversations. That would strictly be a guess, but maybe 65
9 percent, something like that.

10 Q And, you know, what --

11 A That's just an estimate.

12 Q Sure, understood.

13 What would be -- what would be the nature of the
14 things that you would talk about, subject areas?

15 A It's all over, all over the board. We'd talk
16 about operations, profitability, sales, sometimes he would
17 want an analysis prepared. I mean, anything that a CFO
18 would talk about to the president, just normal things.

19 Q Well, forgive me. I haven't occupied such a
20 position so I really don't have any idea what a CFO would
21 normally talk to a CEO about.

22 A Well, finances. I would talk to him about the
23 bank borrowings that there might be a need for. Of course,
24 we work together on that with the banks. Forecasts, cash
25 flow forecasts; anything to do with the finances of the

1 business basically.

2 Q Would you discuss personnel matters with him?

3 A Sometimes.

4 Q Would you ever discuss personnel matters with him
5 in terms of, you know, the operations of any of the radio
6 stations?

7 A Sometimes.

8 Q And what might come up?

9 A Well, it could be any number of things. I mean,
10 he might -- I mean, to give you an example, the general
11 sales manager in Fort Wayne just got another job, and John
12 told me about it when he announced when he was resigning,
13 and we talked about it for awhile. He's got to come up with
14 a plan for what to do there now, and we talked about all
15 that. I mean, that's all.

16 Q Given your respective positions, I take it, it
17 would be normal topic of conversation to discuss the
18 performance of station general matters?

19 A The performance, is that what you said?

20 Q Yes, sir.

21 A Yeah, some, some, but it's -- he discusses the
22 direct problems more with them. I mean, if he thinks there
23 is a problem, he would go and talk to them about it.

24 Would I ever hear about something or through him?

25 Yeah, possibly.

1 Q And then you mentioned that the topic of the
2 general sales manager might come up?

3 A Yeah, I mean, we talk -- we talk about general
4 subjects. I mean, he sometimes uses me as a sounding board,
5 and so we'll talk about things, and then he makes a
6 decision.

7 Q Now, over the course of the last -- it would be
8 four and a half years now, from April 1, 1994, would you
9 ever talk with him about WRBR?

10 A Did we ever talk about RBR? I'm sure the subject
11 come up, but very little. I mean, very, very little. I
12 mean, I would never go to him on any -- almost nothing.

13 Q Would you talk about the sales performance of WRBR
14 given that there was that one sales agreement and that, you
15 know, Pathfinder employees were responsible for sales?

16 A We may have talked about that, yes. The GSA, we
17 talked about, and the joint sales, yes.

18 Q Do you remember anything in particular that you
19 would talk about relative to the joint sales agreement?

20 A Gee-whiz, that's a pretty open -- open ended.

21 I mean, I talked about, for example, there was an
22 amendment to that. We discussed that at the time. You
23 know, I'm sure that early on we talked about the joint sales
24 agreement, that the sales were not where we had hoped they
25 would be, and we talked about that; and certainly what

1 Steve was doing to fix those kind of problems, such as
2 hiring more salespeople, and getting more veteran
3 salespeople, and they changed general sales managers.

4 So, I mean, did we talk in general those problems,
5 those questions? Yes is the answer; sure.

6 Q Did you and Mr. Dille talk about the change that
7 Mr. Kline effectuated in terms of having the salespeople
8 sell the stations individually as opposed to selling them
9 together?

10 A It's very possible we talked about it, or he
11 informed me, or Steve informed me. I mean, I knew that it
12 was happening. And it's very likely that we talked about
13 all of that, but there was hours on hours of discussion, of
14 course, between Steve and John on that subject, and that was
15 a significant change, and they would have discussed that and
16 made, you know, made the decision.

17 JUDGE CHACHKIN: What are the responsibilities of
18 a chief financial officer?

19 THE WITNESS: Well --

20 JUDGE CHACHKIN: It covers the entire gamut. It's
21 anything relating to the financing --

22 THE WITNESS: Anything to do --

23 JUDGE CHACHKIN: -- financial outputs of the
24 corporation?

25 THE WITNESS: Yes, sir. Anything to do with the

1 finances.

2 JUDGE CHACHKIN: So every aspect of the station's
3 operation concerns the financial health of the company,
4 doesn't it?

5 THE WITNESS: Yes.

6 JUDGE CHACHKIN: Is there any aspect of the
7 corporation that you would not be involved in?

8 THE WITNESS: Well, I really don't get involved in
9 the sales area or anything like that. I mean, I don't --

10 JUDGE CHACHKIN: I'm talking about the bottom line
11 thought.

12 THE WITNESS: I'm concerned about the bottom line,
13 but I don't get involved in any decisions relating to sales
14 or programming, I'd say engineering, those area, I don't
15 have anything to do.

16 JUDGE CHACHKIN: Unless it involves the bottom
17 line, of course?

18 THE WITNESS: Correct.

19 JUDGE CHACHKIN: And so you are involved to that
20 extent?

21 THE WITNESS: I'm involved to the extent that we
22 might discuss the lack of sales and what -- you know, what
23 is the potential to turn things around, and that kind of
24 thing. But how they actually go about it, I don't really
25 get involved in that.

1 JUDGE CHACHKIN: Do you get involved in any
2 acquisitions of the corporation?

3 THE WITNESS: Yes, sir. I do look at
4 acquisitions, and I look at documents relating to
5 acquisitions and that kind of stuff.

6 JUDGE CHACHKIN: So it would be normal for you to
7 be concerned with the proposal to -- in connection with
8 WRBR, since it did involve your corporation as well, did it
9 not?

10 THE WITNESS: Well, we did look at RBR and, of
11 course, when Pathfinder was going to purchase it, and we
12 looked at it quite a little bit as to -- and made the
13 decision that we would like to.

14 JUDGE CHACHKIN: And as far as the arrangement to
15 allow, for instance, instead of having to pay for expenses,
16 for Mr. Hicks to pay expenses, to have it treated by you on
17 the books as a -- what was it, a receivable? But that was
18 your decision, you participated in that decision?

19 THE WITNESS: Yes. Yes.

20 JUDGE CHACHKIN: Is it fair to say that you're the
21 chief advisor to Mr. Dille concerning the corporation's
22 affairs, and you have been that since you became chief
23 financial officer?

24 THE WITNESS: With respect to finances, yes. Yes,
25 sir.

1 JUDGE CHACHKIN: Go ahead, counsel.

2 MR. SHOOK: We're going to resume basically where
3 we were.

4 JUDGE CHACHKIN: Well, let me -- let me -- indulge
5 me.

6 You started the corporation 20 years ago?

7 THE WITNESS: I started working for both
8 Pathfinder and Truth Publishing Company 20 years ago.

9 JUDGE CHACHKIN: In what capacity?

10 THE WITNESS: I was the -- what was considered the
11 business manager. Let me explain. We have one business,
12 what we call business office, or call it the accounting
13 department, and they do the accounting for the Truth
14 Publishing Company, which owns the Elkhart Truth Newspaper,
15 and accounting then -- they do the accounting for Pathfinder
16 Communications Corporation, which owns radio stations, and
17 has varied from -- since I've been with the company, from
18 about nine to 13 at different times. And then there is a
19 couple of other small real estate venture type deals that we
20 do the accounting for.

21 So I started off in the business office, in charge
22 of the business office department, and reported to the
23 secretary and treasurer at that time, my predecessor. And
24 after a couple of years, I was -- I had the same position
25 but was promoted to an officer of both companies, and I was

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1 assistant secretary and treasurer.

2 And then it was in --

3 JUDGE CHACHKIN: Still business manager?

4 THE WITNESS: I was still business manager also.

5 And then about 1989, '88 or '89, my predecessor had a
6 medical problem, an eye problem, and that started -- and he
7 remained on for two to three years after that. But I
8 started helping him with a lot more things, of course.

9 Then in 1991, he did retire, and I at that time
10 became secretary and treasurer.

11 JUDGE CHACHKIN: And chief financial officer?

12 THE WITNESS: Or excuse me. It was a little
13 before that. Even -- I became secretary and treasurer and
14 chief financial officer really before he retired because he,
15 he actually stayed around for a year or so after he
16 relinquished his position as secretary and treasurer.

17 JUDGE CHACHKIN: Have you remained in that
18 position ever since?

19 THE WITNESS: Yes, sir.

20 JUDGE CHACHKIN: And you're also
21 secretary/treasurer, and what other position? You're on the
22 board or --

23 THE WITNESS: I am on -- yes. Now, I'm on the
24 board, yes. It's a -- of course, it's a closely held
25 company and it's not like we're a public company, and there

1 are very, very few shareholders in the companies.

2 Mostly, and excuse me, they are all family-
3 related.

4 JUDGE CHACHKIN: So it's Mr. Dille and his family?

5 THE WITNESS: Mr. Dille and his family; his
6 sister, mother, used to be his father when his father was
7 alive, of the estate. At this moment, we're going between
8 the estate and his mother.

9 So over the 20 years, I mean, I've got to know the
10 family fairly well. I know his children. I mean, I've seen
11 them since they were -- used to come to the office and that.
12 I know his wife.

13 JUDGE CHACHKIN: Do you have a stock interest?

14 THE WITNESS: No, sir. No.

15 JUDGE CHACHKIN: Go ahead, counsel.

16 BY MR. SHOOK:

17 Q With respect to the operation of the joint sales
18 agreement between Pathfinder and then when Booth was the
19 entity on the other side, we looked at the joint sales
20 agreement a little bit yesterday, and one of the aspects of
21 it that I want you to clarify for us is when money would
22 come in the operation, it would come into this Radio I
23 venture; is that how that worked?

24 The money would come into Radio I, and Pathfinder
- 25 would account for how much money came in and what the

1 related expenses were. And then if there was an excess, if
2 the money coming in exceeded the expenses, then at some
3 point thereafter there would be a disbursement by Pathfinder
4 to Booth, would there not?

5 A That's correct.

6 Q That disbursement would be in the form of a check?

7 A Yes.

8 Q It would be a check made payable to Booth?

9 A Yes.

10 Q And it was made in accordance with the schedule
11 established in the joint sales agreement?

12 A Yes.

13 Q Now, with respect to Booth's expenses outside of
14 the sales area, Pathfinder had nothing to do with that, did
15 it?

16 A No, we didn't.

17 Q So that if Booth had to pay salaries to its
18 programming staff, Booth would simply take care of that
19 itself?

20 A That's correct.

21 Q Pathfinder had nothing to do with that?

22 A That is correct.

23 Q Now, did that situation stay the same or differ in
24 any way once Hicks became the licensee of WRBR?

25 Could you give us an overview of how that worked?

1 A Yes, that did change at that time, that part of
2 it, because also at that time we entered into an accounting
3 services agreement with them. And after talking to counsel,
4 we were advised that it would be okay if we wrote all the
5 checks out of one bank account, and then just charge them to
6 the proper entity.

7 It's due -- and since we did that, that meant that
8 we were paying all -- we paid all the bills of Hicks, and
9 then charged it to that entity.

10 So by paying those bills, you think of every time
11 that bill got paid by Pathfinder, whether it was a JOA
12 expense or some other expense, such as programming, it
13 became a receivable from Hicks to Pathfinder just as, and I
14 give you an example then of the revenue. WRBR's portion of
15 that revenue, every time -- in any given month they split
16 the revenue based upon the formula in the JOA, and that --
17 their portion of revenue became a payable to WRBR. So in
18 any given month, they had -- Hicks had a receivable from
19 Pathfinder for the revenue and a payable to Pathfinder for
20 the expenses, cash expenses. Any expenses that were
21 accrued, of course, never became a receivable until they got
22 paid, and that's the par that did change.

23 Together with the accounting services agreement,
24 and then early on that receivable balance was -- there was
25 a -- on various months in early stages of the arrangement,

1 there was this receivable balance payable to Pathfinder, and
2 then in some months there was this payable from Pathfinder
3 to Hicks in some of those months too.

4 Q Now, we're going to get --

5 A Excuse me. I just wanted to say that if you don't
6 understand anything about that, I certainly want to try to
7 put it in terms that make it very clear. I want everybody
8 to understand.

9 Q Well, as we go along, I'll discuss with you some
10 specific financial statements and to the extent that things
11 are still a little fuzzy, we can get them clarified at that
12 point, but what I wanted was basically an overview of how
13 things worked.

14 Now, continuing with the overview concept, if we
15 had a situation where at the end of a given month the books
16 would reflect that Pathfinder owed Hicks, let's say for the
17 sake of discussion \$20,000, was there any understanding or
18 agreement between Hicks and Pathfinder in terms of whether
19 that sum would earn any interest, or was there -- or would
20 there come a time when interest would be earned given the
21 amount of money that was owed?

22 A No, we really didn't address that until, I mean,
23 until we saw that it was going to be that way for quite
24 awhile. And then we addressed how that was to be paid, paid
25 to them.

1 Q Well, give me a rough idea in terms of when that
2 happened. We're probably going to come to it specifically,
3 but if you can recall right now. You know, thinking that we
4 started on April 1, 1994, with Hicks and Pathfinder as
5 licensees of WRBR and WLTA, respectively, how long after
6 April 1, 1994, was it before this arrangement came into
7 being that you were starting to describe?

8 A Well, it never actually started happening until
9 1997.

10 Q Was there --

11 A Now, before that, before that the balance went
12 back and forth between a payable and a receivable between
13 the companies, and it got as high as -- I think it was
14 \$80,000 receivable from Hicks, and then in some periods it
15 was wiped out, and then in some periods -- in other words,
16 it became a -- there was a payable to them in some of those
17 periods too, and I don't have that in front of me, but
18 you've seen it.

19 Q Right. No, and as I said, when we -- as we'll go
20 along chronologically, we'll get to some of those.

21 A Right.

22 Q But the --

23 A And since then, okay, that is also -- at that time
24 that is when we did make an amendment to the joint sales
25 agreement and memorialized how that procedure was going to

1 happen, that payment, okay.

2 Now, just so you know, starting in April '96, we,
3 if there was ever a period that Hicks owed Pathfinder money,
4 that balance had to be paid within 30 days, and that was
5 starting in April of '96.

6 And then in -- then in 1997, we memorialized how
7 that payment -- we actually, even though that part didn't
8 get memorialized for some reason, it didn't get in the
9 amendment, it is the procedure and has been since April '96,
10 the payment from Pathfinder to Hicks, how that money gets
11 paid was memorialized in that amendment, and it gets paid
12 basically in two installments at 50 and 70-day mark,
13 something like that, 60 and 90-day mark.

14 Q Now, that concept, though, really is pretty much
15 the same as what existed in the original joint sales
16 agreement, isn't it, the concept of the payment?

17 A That concept -- that concept of how that positive
18 operating balance was going to get paid to Hicks, yes, that
19 is the same -- similar concept to the previous agreement;
20 that's correct.

21 Q All right. And as I said, we'll go over some
22 specifics as we get to various financial statements.

23 When we broke yesterday, we were look at Mass
24 Media Bureau Exhibit 63, and you will notice with respect to
25 the letter there are several things that were included with

1 it. One of which was a document called the "Unanimous
2 Written Consent."

3 Now, with respect to that, I'd like to direct your
4 attention to Mass Media Bureau Exhibit 100, and that's in
5 the third volume. If you don't have that, we can get it for
6 you.

7 A I think I have it.

8 Q Now, you'll notice that the document essentially
9 appears in two pages. The first page including three
10 signatures, and the fourth page having the fourth person's
11 signature.

12 A That's correct.

13 Q Did you have any role in preparing the signatures
14 of the Dille children?

15 A Yes.

16 Q What did you do?

17 A I -- I -- well, as I indicated, I was kind of a
18 point of coordination for some of these documents, and I had
19 to get Glenn to sign it, he was in town, Sarah, I think was
20 in town, Alec was in Arizona at the university, and so I had
21 to get them to sign it, or I had to coordinate their
22 signature on it.

23 Q All right, now, if you would, please, just read to
24 yourself the third full paragraph in Exhibit 100, the first
25 page.

1 Do you see where it makes reference to the
2 purchase agreement?

3 A Yes.

4 Q Do you know whether or not the Dille children at
5 any time prior to the signing of this unanimous consent had
6 reviewed the purchase agreement?

7 A I can't say with -- positive, that I'm positive
8 that they did. I would most likely say they probably did
9 not, but I don't know that, but I do not know that for sure,
10 and I really don't know what they read and what they didn't.
11 If they read it, I didn't read it. I have no knowledge of
12 the reading it.

13 JUDGE CHACHKIN: When you secured their signature,
14 you didn't give them a copy of the purchase agreement to
15 review?

16 THE WITNESS: No, Your Honor.

17 MR. SHOOK: Your Honor, the Bureau moves Exhibit
18 63 into evidence?

19 JUDGE CHACHKIN: Any objection?

20 MR. WERNER: No, Your Honor.

21 JUDGE CHACHKIN: All right, the Bureau's 63 is
22 received.

23 //

24 //

25 //

1 (The document referred to,
2 having been previously marked
3 for identification as MMB
4 Exhibit No. 63, was received
5 into evidence.)

6 BY MR. SHOOK:

7 Q Mr. Watson, I want to direct your attention to
8 Mass Media Bureau Exhibit 64.

9 Did you receive the fax cover sheet and
10 accompanying material?

11 A I assume I did, yes.

12 Q I mean, you have no reason to believe you did not?

13 A No, not at all.

14 Q And would it have been your recollection that you
15 reviewed the material in the fax?

16 A Yeah, I guess so. I mean, I don't remember it
17 right now, but sure. I mean, it was sent to me. I would
18 have reviewed it and I'm sure Rick Brown would have reviewed
19 it.

20 Q And your review was basically on behalf of the
21 Dille children, correct?

22 A That's correct.

23 MR. SHOOK: Your Honor, the Bureau moves Exhibit
24 64 into evidence?

25 JUDGE CHACHKIN: Mr. Werner, any objection?

1 MR. WERNER: No objection from Hicks, Your Honor.

2 JUDGE CHACHKIN: Exhibit 64 is received.

3 (The document referred to,
4 having been previously marked
5 for identification as MMB
6 Exhibit No. 64 was received
7 into evidence.)

8 MR. JOHNSON: None from Pathfinder, Your Honor.

9 JUDGE CHACHKIN: All right.

10 BY MR. SHOOK:

11 Q Directing your attention to Exhibit 65, I noticed
12 from the first page of the fax that it is not directed to
13 you. However, if you look at page 2 of the exhibit, the
14 letter there shows a cc to you.

15 Do you have any recollection of receiving this
16 material, sir?

17 A No, I don't have any recollection, but I may have.
18 I mean, it had to do with this operating agreement, and
19 editing of any of it. I assume I received this.

20 Q Well, going back in time here, there appears to be
21 a real flurry of activity on March 31, 1994. That was the
22 day of the closing, wasn't it?

23 A Yes, sir.

24 Q And the operating agreement itself was essentially
25 being finalized on that day?

1 A Apparently.

2 Q The number of drafts going back and forth until
3 everybody was satisfied?

4 A Well, I don't know about a number of drafts. I
5 mean, I've got to believe that this was a pretty early
6 final. I mean, this may have been the final one, so I don't
7 know about a number.

8 Q All right, but what we -- what we have gone over
9 is consistent with what you remember in terms of faxes going
10 back and forth, and you would have to review the final
11 language of the operating agreement?

12 A Yes.

13 MR. SHOOK: Your Honor, the Bureau moves Exhibit
14 65 in.

15 JUDGE CHACHKIN: Any objection?

16 MR. JOHNSON: None, Your Honor.

17 MR. WERNER: None from Hicks, Your Honor.

18 JUDGE CHACHKIN: Bureau Exhibit 65 is received.

19 (The document referred to,
20 having been previously marked
21 for identification as MMB
22 Exhibit No. 65, was received
23 into evidence.)

24 BY MR. SHOOK:

25 Q Now, you may be relieved to know that we're not

1 going to go back into Volume 2 much anymore. You can spend,
2 you can put that one away for now.

3 I want you to look at Exhibit 67, which is the
4 first one in the third volume. Now, what we have is a one-
5 page letter here.

6 That is your signature?

7 A Yes, it is.

8 Q Now, if you could provide us your understanding of
9 the source of your authority for taking the action that is
10 reflected in this document.

11 A Well, this would have been one of the things that
12 I discussed with Dave Hicks, one of the many things that we
13 talked about toward the end of February or March, and
14 thinking that the grant, that he would get the grant at some
15 point in the fairly near future, he had to get set up to do
16 business just like on all the other things that we've talked
17 about. One of them, we had to have insurance. And as -- as
18 he had asked us to do the accounting services, and we, after
19 talking to Alan, agreed to do that, and we -- I considered
20 this part of the accounting services, he asked me.

21 And he also was thinking that he could get a
22 little better rate if he -- if he would go with our
23 insurance, and I'm sure he did. It probably cost him a
24 little more having gone -- if he had to get it on his own.

25 Q Now, other than the accounting agreement that

1 you've already talked about, and the memo to the files, that
2 March memo that's dated March 4, which you dictated March 2,
3 was there any written directive from Mr. Hicks to the effect
4 that you should deal with what's reflected in Mass Media
5 Bureau Exhibit 67?

6 A No.

7 JUDGE CHACHKIN: Well, what hat were you wearing
8 when you -- it sounds to me by looking at this thing that
9 you were acting as chief financial officer of Mr. Hicks'
10 station?

11 THE WITNESS: Well, I certainly didn't mean to
12 suggest that, no.

13 JUDGE CHACHKIN: Well, you have projected --

14 THE WITNESS: Well --

15 JUDGE CHACHKIN: -- estimates of revenue. What
16 does that have to do with accounting?

17 THE WITNESS: Well --

18 JUDGE CHACHKIN: Isn't that the role of la
19 financial officer, to make such estimates, make such
20 projections?

21 THE WITNESS: Well, to get insurance for the
22 company that he asked me to do --

23 JUDGE CHACHKIN: Why was he asking you to get
24 insurance for the company? Why did --

25 THE WITNESS: He had to have it, and, you know,

1 we --

2 JUDGE CHACHKIN: I understand he had to have it,
3 but the question is why was he using you? I mean, what role
4 did -- were you an employee of the RBR Radio?

5 THE WITNESS: No, through the accounting service
6 agreement, we were kind of an independent contractor, and as
7 an extension of that he asked me to see if we could get
8 insurance, and it seemed -- you know, we knew -- we knew
9 him. It's not like we didn't have some relationship there.
10 He was no stranger. And the minority shareholders were
11 owners in other companies and thought if it could be done,
12 then fine.

13 And as far as the projections, I mean, yes. In
14 order to get -- secure that insurance, you had to give them
15 some kind of projections in order to see them start the
16 policy.

17 JUDGE CHACHKIN: What did you do to make those
18 projections? What was the work you performed to make those
19 projections?

20 THE WITNESS: They really weren't very scientific.
21 If I looked at projected -- we were -- of course, had some
22 knowledge about revenue because of the joint sales
23 agreement. I knew what the revenues were. It was just a
24 projection, just an estimate, I didn't spend any time on it.
25 Just had to come up with some kind of an estimate, and I

1 probably, as I normally do, I project low because to project
2 high you're going to pay too much premium. And if you
3 project low, you pay a little lower, but then you get
4 adjusted at audit time when they audit your actual revenue.

5 And payroll was just a projection based upon -- I
6 don't even know really. I probably looked at BYTES and just
7 came up with a -- said radio station, one or two less
8 employees and estimated. Almost no time was spent on this
9 here. It wasn't very scientific at all because I knew it
10 would all come out in an audit by the insurance company.

11 JUDGE CHACHKIN: So you did all this as a good
12 neighbor of Mr. Hick's?

13 THE WITNESS: Well, no. Well, not just a good
14 neighbor. I mean, we -- we did certainly have a good
15 relationship, but --

16 JUDGE CHACHKIN: I mean, you do this for other
17 competitive broadcast stations, go ahead and make
18 projections, get insurance for them, and --

19 THE WITNESS: No.

20 JUDGE CHACHKIN: -- do like things?

21 THE WITNESS: No, I don't do that for other
22 stations, but we --

23 JUDGE CHACHKIN: Have you done it for any other
24 station?

25 THE WITNESS: That --

1 JUDGE CHACHKIN: A competitive station?

2 THE WITNESS: No, Your Honor.

3 JUDGE CHACHKIN: Well, I'm wondering why, if you
4 weren't a good neighbor, what role were you acting? If you
5 weren't an employee of the station, what -- what hat would
6 you wear at the time that you did all this?

7 THE WITNESS: Well, at this time I was merely -- I
8 thought I was wearing a hat of an independent contractor,
9 and the accounting services agreement, you know, was just an
10 extension of that. I didn't think anything of it.

11 And if they -- we did have a joint sales agreement
12 with them. We a little bit more relationship than we had
13 with a different competitor.

14 JUDGE CHACHKIN: Well, presumably, you didn't do
15 such things for Booth.

16 THE WITNESS: No, we didn't.

17 JUDGE CHACHKIN: Go ahead, counsel.

18 BY MR. SHOOK:

19 Q Now, with respect to the projected revenue, just
20 to make sure I understand, it was your office that prepared
21 this projection?

22 A Well, I don't know if you can call it prepared the
23 projection. It was -- I dictated this letter, yes.

24 Q Well --

25 A I mean, it was no big projection coming up here.

1 I mean, it was -- what I may have done, in fact, is look at
2 WBYT's number that I had given, and at that time the revenue
3 was split 50/50, so I may have even used the same number. I
4 don't remember. It may not have even been a projection.
5 But every year you have to give the insurance company a
6 projection for the year.

7 Q Was the annual projection that you would make to
8 the insurance company done on or around April 1, or had you
9 done the insurance projection for WBYT -- or excuse me, at
10 that time WLTA -- at an earlier date?

11 A I think at that my renewal date was April 1. Yes,
12 I believe it was. And, in fact, I would have given the
13 insurance company data in probably early February. We had a
14 renewal date of either April 1 or May 1. I can't remember.
15 It's now June 1, and that's -- that moved back a month or
16 two over the last couple of years.

17 Q Okay, given that testimony, is there a companion
18 letter, if you will, that had been sent to the insurance
19 person with respect to WLTA?

20 A Oh, yes, but that would have been included in a
21 rather lengthy, seven or eight-page thing, showing values of
22 each property and addresses and that kind of stuff.

23 Q In terms of the -- well, with respect to the
24 projected revenue, did you share that figure with anybody at
25 Hicks Broadcasting of Indiana, LLC?

1 A No.

2 Q With respect to the projected payroll, was it your
3 office that -- you or your office that came up with this
4 figure?

5 A It was me.

6 Q Did you share that figure with anyone at Hicks
7 Broadcasting of Indiana, LLC?

8 A No, I -- I didn't feel -- that part wasn't
9 necessary because all that was used was an estimate to get
10 the insurance started.

11 In the end, at the time of audit, they go over
12 your revenue and your payroll, and they will adjust the
13 premium. You either paid too little or you paid too much.
14 And so, therefore, the actual premium for Hicks would have
15 been -- they're going to end up paying that, and they're
16 going to end up paying --

17 Q And they are going to end up paying whatever they
18 should pay?

19 A -- whatever they should, whatever they should pay,
20 right.

21 Q You may have mentioned this in responding to the
22 judge but I don't recall.

23 How did you determine what the projected payroll
24 would be?

25 A I really don't recall. I just -- my guess is that

1 I looked at a typical radio station to see what the payroll
2 might be. Might have looked at BYT's and seen what theirs
3 is, and taken either the same number or maybe reduced it a
4 little bit. I don't know. I'm telling you what I -- the
5 process that I think I would have gone through because I can
6 assure you there wasn't any time spent on this, very little.

7 Q Well, as far as that goes, the first sentence
8 reflects that you had at least one previous discussion with
9 this individual who is representing the insurance company.

10 A Yes.

11 Q Do you have any recollection as to whether there
12 was one or more discussions, and if so, when they took
13 place?

14 A I don't recall if there were -- I know there was a
15 discussion before this. There wasn't -- I don't know if
16 there was more than one or not. There may have been two,
17 but certainly one.

18 Q And there is nothing that helps you looking at
19 this letter to give you an idea as to when any such
20 discussion might have occurred?

21 A No. No. Probably the -- it could have been some
22 time -- you know, some time in the month of March. I mean,
23 some time after Dave talked about -- and I talked about
24 insurance.

25 One thing, I didn't know -- I didn't even know if

1 they could be on our -- put on our policy, you know. We, of
2 course, were going to split -- allocate the premium
3 accordingly, but didn't know if they could be a part of our
4 policy, and I'm sure that's what that discussion was about.
5 I did have to give them the -- they asked what is the
6 ownership of Hicks, and he wanted, they wanted to know that.
7 I gave them that information, and I told them about the
8 joint operating agreement, the joint sales agreement. And
9 with that information, he came back and said okay.

10 And then -- and, of course, after he said okay,
11 that's when I transmitted this information to him.

12 Q If you would please turn to -- it's in Volume 1,
13 Exhibit 2, pages 10 and 11. And the particular request and
14 response that I want you to look at is No. 39. Just read it
15 to yourself.

16 (Witness reviews document.)

17 THE WITNESS: Thirty-nine, yes.

18 BY MR. SHOOK:

19 Q Right, and the sentence that I want you to focus
20 on is the very last sentence in the response. Again, just
21 read it to yourself.

22 Now, with respect to payroll checks, were all the
23 payroll checks simply Pathfinder checks?

24 A Yes. They were Pathfinder checks, and distributed
25 to the proper radio station based on how -- how they were

1 supposed to -- how Steve Kline told us.

2 Q In other words, the check that the employee would
3 receive would show that it was a Pathfinder check, but in
4 terms of the books, the books would reflect --

5 A Exactly.

6 Q -- whether the money was paid to a WRBR employee
7 versus a WLTA/WBYT employee?

8 A Absolutely.

9 Q And then if there was an allocation, say 50/50,
10 then half of that paycheck would be reflected on the books
11 of WRBR and half would be reflected on the books of WLTA?

12 A Yes.

13 JUDGE CHACHKIN: How were the payroll checks
14 handled at other stations that the licensee had? Were they
15 also done by the accounting department at headquarters?

16 THE WITNESS: Yes.

17 JUDGE CHACHKIN: And were they also similar to
18 WRBR in the sense that they reflected on the books that they
19 were part of that -- I mean, was there anything different
20 from the procedure used for WRBR and that you used with
21 other stations which were part of the corporation in terms
22 of your recording checks to the avoid --

23 THE WITNESS: No, there was -- there was nothing
24 different. In fact, I guess that's why we thought, thought
25 it was the most efficient way to do the accounting for that

1 to get them paid.

2 I mean, we already had the system and we could do
3 one payroll instead of two.

4 JUDGE CHACHKIN: So you treated them as you would
5 any other station license to the Pathfinder in terms of --

6 THE WITNESS: As far as them getting paid and
7 their payroll check, yes, Your Honor.

8 JUDGE CHACHKIN: I see.

9 BY MR. SHOOK:

10 Q Could you turn, please, to Mass Media Bureau
11 Exhibit 73?

12 A Are you finished with 67?

13 MR. SHOOK: Excuse me, sir.

14 Yes, and if I neglected to offer --

15 JUDGE CHACHKIN: Well, let me ask a question about
16 that. Would you look at the first paragraph, sir? This is
17 your letter?

18 THE WITNESS: Yes, it is.

19 JUDGE CHACHKIN: And you signed it as
20 secretary/treasurer of Federated Media, which you've already
21 testified to was -- what is that, part of --

22 THE WITNESS: It's just a name given to the --
23 it's the umbrella name given to Pathfinder Communications
24 Corporation and Truth Publishing being under the name.

25 JUDGE CHACHKIN: All right. The second sentence